



# Seattle City Attorney

Peter S. Holmes

---

August 20, 2013

Jim Pugel  
Interim Chief of Police  
Seattle Police Department  
610 Fifth Avenue, PO Box 34986  
Seattle, WA 98124-4986

Dear Jim:

Thank you for your August 14 letter (received by hand delivery on August 15), asking me to file charges against 28 Seattle residents for the crime of Failure to Respond to Notice of Infraction ("FTR"). It is our policy to consider FTR reports case by case. As we have discussed, I am cautious about filing criminal FTR charges because the City deliberately decided to make the underlying offenses civil matters, not criminal. Moreover, as you well know, FTR proceedings seldom improve our urban quality of life, except for the very short time people may be incarcerated at great expense to taxpayers. While I am willing to file criminal FTR charges under certain specific circumstances, as a general rule I believe in addressing problems with more effective, lasting approaches.

In cases where specific people chronically commit similar infractions under similar circumstances, fail to respond to these infractions, and refuse to stop their behavior after repeated attempts (by law enforcement, human services, LEAD, the Crisis Solutions Center, the Mobile Crisis Team, or other agencies, as appropriate) to achieve compliance, I will consider criminal FTR charges. To meet the high burden of turning civil offenses into criminal offenses, it is important that law enforcement document the chronic nature of the violations, the efforts to gain compliance, and the result of human services or other outreach.

In consultation with Center City Initiative leadership, this was the agreed-upon strategy in the case of Mr. Morin (aka Mr. Morris). In that case, SPD worked closely with our West Precinct Liaison and consulted with our Criminal Division Chief before referring charges. By the time you referred FTR charges, SPD had compiled a record of Mr. Morin's chronic civil infractions, your efforts to convince him to comply with the law, and human services outreach.

None of the reports you sent me last week follow that model, nor do they contain sufficient information for me to make filing decisions. Simply identifying three defaulted civil infractions is not the same as explaining the chronic nature of specific people's uncivil conduct or efforts to either address the underlying human services problems or stop the behavior short of criminal charges. The binder also does not address warrant status or possible felony charges.

August 20, 2013

Page 2

We have already determined that one of the people whose names you sent has been incarcerated in state prison in Monroe for more than a month and will remain in state custody for close to another year. Two others have active Seattle Municipal Court warrants for which they could currently be arrested; three have active warrants from other courts that may be enforceable in Seattle; and one is a LEAD participant whose case would typically be discussed by the LEAD Operational Workgroup before our office makes a filing decision. None of this information was identified in the binder, but it is the type of information that should have been included in SPD's workup of these cases. I am returning SPD's binder with additional information on the 28 people we have compiled in our research, which SPD should use to further develop the reports.

You should also know that I am disappointed by the inaccurate and unhelpful statements Captain Dermody sent to the entire City Council in an email last Friday. In that email, Captain Dermody stated: "Mr. Holmes stopped charging Failure to Respond (SMC 12A.02.085) misdemeanors (for outcomes such as our deplorable compliance rate)." As you know, this is not true. I have no blanket policy against filing any misdemeanor or gross misdemeanor charges, with the sole exception of simple marijuana possession by adults. And we worked with both you and Captain Dermody to file FTR charges against Mr. Morin and have expressed our willingness to file additional FTR charges under the circumstances described above. Given the Morin case, my prior statements on this issue, discussions my office has had with SPD and Center City Initiative leadership, and discussions I have had directly with Captain Dermody, I am both surprised and dismayed that he would make these statements to City Councilmembers—especially without copying me. You and I need to meet to discuss how to address Captain Dermody's statements, which threaten not only the success of the Center City Initiative, but our two departments' ability to collaborate on critical public safety challenges.

Very truly yours,



Peter S. Holmes  
Seattle City Attorney

Cc: Captain James Dermody  
Seattle City Councilmembers  
Mayor Mike McGinn